

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

**FILED**

JUN 30 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

THE CONSTRUCTION INDUSTRY WELFARE  
FUND OF ROCKFORD, ILLINOIS;  
THE CONSTRUCTION INDUSTRY  
RETIREMENT FUND OF ROCKFORD,  
ILLINOIS,

Plaintiffs,

v.

IN LINE DESIGN TILE CO. INC. also known as  
IN LINE TILE, INC.

Defendant.

CASE NO. 08 C 5 0 1 25

*Judge Kapala*

**COMPLAINT**

NOW COMES the Plaintiffs, THE CONSTRUCTION INDUSTRY WELFARE FUND OF ROCKFORD, ILLINOIS and THE CONSTRUCTION INDUSTRY RETIREMENT FUND OF ROCKFORD, ILLINOIS, by and through their attorneys, MARC M. PEKAY, P.C. and hereby complain against the Defendant, IN LINE DESIGN TILE CO. INC. also known as IN LINE TILE INC., an Illinois Corporation, as follows:

1. Jurisdiction is based on Sections 502(e)(1) and (2) and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. Section 1132 (e)(1) and (2) and 1145, Section 301(a) of the Labor Management Relations Act ("LMRA") of 1947 as amended, 29 U.S.C. Section 185(a), and 28 U.S.C. Section 1331.

2. Venue is proper pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. Section 1132 (e)(2), and 28 U.S.C. Section 1391 (a) and (b).

3. (a) The Plaintiffs are THE CONSTRUCTION INDUSTRY WELFARE FUND OF ROCKFORD, ILLINOIS and THE CONSTRUCTION INDUSTRY RETIREMENT FUND OF ROCKFORD, ILLINOIS; (hereinafter called the "Rockford Funds") and having standing to sue pursuant to 29 U.S.C. Section 1132(d)(1) and 29 U.S.C. Section 185(a).

(b) The Rockford Funds have been established pursuant to Collective Bargaining Agreements previously entered into between various Unions and certain employer associations whose employees are covered by the Collective Bargaining Agreements with the Unions. The Rockford Funds are maintained and administered in accordance with and pursuant to the provisions of the National Labor Relations Act, as amended, and other applicable state and federal laws.

4. IN LINE DESIGN TILE CO. INC. also known as IN LINE TILE, INC. (hereinafter "In Line" or "Defendant") is an Illinois Corporation engaged in the construction industry and doing business within this geographic area and is an industry affecting interstate commerce.

5. On or about December 4, 2006, the Defendant and the Bricklayers and Allied Craftworkers Local #6 Illinois -Peoria Chapter entered into a Collective Bargaining Agreement. See *Exhibit A*.

6. Under the terms of the Collective Bargaining Agreements and Trust Agreements to which the Defendant is bound, the Defendant is required to make periodic contributions to the Rockford Funds on behalf of certain employees.

7. Since on or about December 4, 2006, In Line has acknowledged and ratified the Collective Bargaining Agreement entered into with The Bricklayers and Allied Craftworkers Local #6 IL – Peoria Chapter by paying contributions pursuant to the Collective Bargaining Agreement and Trust to which Defendant is bound.

8. Pursuant to the Collective Bargaining Agreement, contributions to the Funds are due on the fifteenth (15<sup>th</sup>) day of the month.

9. Pursuant to the Collective Bargaining Agreement to which Defendant is bound, an employer who fails to make the contributions by the twenty-fifth (25<sup>th</sup>) day of the month after the work was performed is required to pay an additional amount of ten percent (10%) in liquidated damages, along with all legal fees and costs expended to collect this money.

10. The Defendant has failed to make timely payments of its contributions from January 31, 2007 to present as required to be paid by it to the Rockford Fund pursuant to the terms of the Collective Bargaining Agreements by which the Defendant is bound, all in violation of Defendant's contractual obligations and the obligations under State and Federal Statutes. The current amount Defendant owes in liquidated damages is One Thousand Nine Hundred and Thirty One Dollars and forty one cents (\$1,931.41). Attached as Exhibit B is a document that shows when the contributions

were due and when they were paid and the amount of liquidated damages that have accrued. *See Exhibit B*

11. In addition to the above, the Rockford Funds have already spent Three Hundred and Eighty Dollars (\$380.00) in legal fees trying to collect these liquidated damages.

12. Pursuant to Section 502(g)(2) of ERISA, 29 U.S.C. Section 1132 (g)(2), Section 301 of the LMRA, 29 U.S.C. Section 185, and the terms of the Collective Bargaining Agreement, IN LINE DESIGN TILE CO. INC. also known as INLINE TILE INC. is liable to the Funds for unpaid contributions, as well as interest and liquidated damages on the unpaid and late contributions, reasonable attorneys' fees and costs, and such other legal and equitable relief as the Court deems appropriate.

**WHEREFORE**, Plaintiffs respectfully request this Court enter a judgment against Defendant, IN LINE DESIGN TILE CO. INC. also known as INLINE TILE INC.,

(a) Enter judgment be entered against the Defendant and in favor of the Plaintiffs in the amount of Two Thousand Three Hundred Eleven Dollars and forty one cents (\$2,311.41) plus additional legal fees and costs incurred to collect this money.

(b) To enjoin Defendant from violating the terms of the Agreement including, but not limited to ordering Defendant to remain current in its payments of contributions; and

(c) To award Plaintiffs any further legal and equitable relief as the Court deems appropriate.

Respectfully submitted,

CONSTRUCTION INDUSTRY  
WELFARE AND RETIREMENT FUND  
OF ROCKFORD, ILLINOIS;

s/ Marc M. Pekay,  
Attorney for Plaintiffs

Marc M. Pekay, P.C.  
30 North LaSalle St., Ste. 2426  
Chicago, IL 60602  
(312) 606-0980

10/19<sup>0</sup>**SUPPLEMENTAL AGREEMENT**

The undersigned parties by affixing their signatures to this document bind themselves with respect to their adherence to the Collective Bargaining Agreement between the Ceramic Tile, Mosaic and Terrazzo Contractors Association of Peoria IL, and the Peoria Chapter of the Bricklayers and Allied Craftworkers Local #6 of Illinois, regarding wages, fringe benefits, hours and other conditions of employment for each Journeyman, and/or Apprentice members or employees working under the jurisdiction of the International Union of Bricklayers and Allied Craftworkers Local Union #6 of Illinois - Peoria Chapter.

If a contractor fails to meet his contractual requirements with respect to wages or with respect to making contributions to the trust funds as required by the Collective Bargaining Agreement, the Union shall have the right to secure compliance and the contractor shall be liable for all costs for collecting the payments due under the aforesaid Agreement.

IN LINE TILE INC.  
Contracting Firm

Bricklayers and Allied Craftworkers  
Local #3 IL - Peoria Chapter

506 S. 8TH ST.  
Address

661 Southrock Drive

PEKIN IL 61554  
City State Zip

Rockford IL 61102

26-4751083  
Tax ID Number

309 353 8623  
Phone

(815) 963-5311 or (309) 359-8029

8625  
Fax

(815) 963-5332 or (309) 359-8029

By: [Signature]  
Company Representative

By: [Signature]  
Union Representative

12-4-06  
Date

EXHIBIT A

CONSTRUCTION INDUSTRY FUND OF ROCKFORD  
6838 EAST STATE STREET SUITE 201  
ROCKFORD, IL 61108  
815-399-0800

IN LINE DESIGN TILE CO. INC. AKA IN LINE TILE INC  
506 SOUTH 8TH STREET  
PEKIN, IL 61554

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5/30/2008

10190

Your payroll submission(s) for the following were delinquent. You have been assessed a delinquent penalty as follows:

ACCT	FUND	PAY PERIOD	PSTMRK DT	FUND AMT	%	PENALTY AMT	PD AMT	PD DT	WAIVE
CIRBCT	CIWFR	01/31/2007	05/31/2007	\$3,091.00	10.00	\$309.10			
CIRBCT	CIWFR	02/28/2007	05/31/2007	\$3,806.00	10.00	\$380.60			
CIRBCT	CIWFR	03/31/2007	05/31/2007	\$4,400.00	10.00	\$440.00			
CIRBCT	CIWFR	04/30/2007	06/28/2007	\$2,772.00	10.00	\$277.20			
CIRBCT	CIWFR	06/30/2007	09/07/2007	\$755.20	10.00	\$75.52			
CIRBCT	CIWFR	07/31/2007	09/07/2007	\$2,118.10	10.00	\$211.81			
CIRBCT	CIWFR	08/31/2007	10/09/2007	\$1,852.60	10.00	\$185.26			
CIRBCT	CIWFR	01/31/2008	03/10/2008	\$519.20	10.00	\$51.92			
Totals						\$1,931.41	\$0.00		
Total Due upon Receipt						\$1,931.41			

Please remit penalty due under separate cover from any hours submissions. Please attach a copy of this letter with your remittance.  
Thank you

EXHIBIT B